

**C.C.R.B CASE CLOSING FORM**

Investigator assigned: S-A O. Wilkinson		Team: 1	CCRB#: 9703376	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse <input checked="" type="checkbox"/> Discourtesy <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident: 7-26-97	Time of incident: 6:00AM	Location of incident: 114-01 134 Street		Pct. of occurrence: 106 - Queens
Date reported: 9-18-97	Time reported: 8:16PM	To whom/where/how reported: C.C.R.B. was contacted by the complainant via an Internal Affairs Bureau (IAB) complaint referral.		
Complainant:  § 87(2)(b)		Home address:  § 87(2)(b)		
Victim:  § 87(2)(b)		Home address:  § 87(2)(b)		
Witnesses:  § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)		Home address:  § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)		
Subject officer(s) (include rank):  § 87(2)(g) Lt. Gary Messin. PO Kevin Boyle PO William F. Johnson § 87(2)(g) PO Tito Perez § 87(2)(g) PO John Cafarella § 87(2)(g) Unidentified Members of Service		Shield:  n/a 02534 25335 11033 10142	Tax:  874530 913035 876523 884517 877375	Command:  106 Emergency Service Unit 9 (ESU 9) Emergency Service Unit 10 (ESU 10) Emergency Service Unit 9 (ESU 9) Emergency Service Unit 9 (ESU 9)
Witness officers:  PO Michael Ledek PO Paul Booth PO Robert Scarpone PO Mark Nonnenmann PO Gary Muhlenforth Sgt. James Keelan PO Raymond E. Phillips Lt. Owen McCaffrey PO Waverly T. Busby Jr. PO Daniel T. Reilly		Shield:  23268 21635 30173 31431 15237 1189 31449 n/a 9771 13926	Tax:  888943 897055 876950 889139 889097 888896 910676 912769 889666 874670	Command:  106 106 106 106 106 106 106 Emergency Service Unit 10 (ESU 10) Emergency Service Unit 9 (ESU 9) Emergency Service Unit 10 (ESU 10)

Allegations by letter:	Recommendations:
A. PO Boyle utilized excessive force against § 87(2)(b) by pushing her out of the way., in violation of Patrol Guide procedure 104-01.	A. § 87(2)(g)
B. Unidentified members of service implemented excessive force against § 87(2)(b) by knocking her to the floor., in violation of Patrol Guide procedure 104-01.	B. § 87(2)(g)
C. Unidentified members of service implemented excessive force against § 87(2)(b) and § 87(2)(b) by pushing them up the stairs., in violation of Patrol Guide procedure 104-01.	C. § 87(2)(g)
D. PO Johnson exercised excessive force against § 87(2)(b) and § 87(2)(b) by pointing his gun at them., in violation of Patrol Guide procedure 104-01.	D. § 87(2)(g)
E. PO Boyle implemented excessive force against § 87(2)(b) and § 87(2)(b) by pointing his gun at them., in violation of Patrol Guide procedure 104-01.	E. § 87(2)(g)
F. PO Cafarella implemented excessive force against § 87(2)(b) and § 87(2)(b) by pointing his gun at them., in violation of Patrol Guide procedure 104-01.	F. § 87(2)(g)
G. Unidentified members of service implemented excessive force against § 87(2)(b) and § 87(2)(b) by pointing their guns at them., in violation of Patrol Guide procedure 104-01.	G. § 87(2)(g)
H. Unidentified members of service implemented excessive force against § 87(2)(b) by kneeing him in his back., in violation of Patrol Guide procedure 104-01.	H. § 87(2)(g)
I. PO Boyle abused his authority by knocking the doors off of their hinges., in violation of Patrol Guide procedure 104-01.	I. § 87(2)(g)
J. Unidentified members of service abused their authority by knocking the doors off of their hinges., in violation of Patrol Guide procedure 104-01.	J. § 87(2)(g)
K. Unidentified members of service abused their authority by searching the residence., in violation of Patrol Guide procedure 104-01.	K. § 87(2)(g)
L. Unidentified members of service abused their authority by saying, I'll shoot you down., in violation of Patrol Guide procedure 104-01.	L. § 87(2)(g)
M. Lt. Messina abused his authority by saying, I'll arrest the whole house. I'll arrest all you motherfuckers., in violation of Patrol Guide procedures 104-01.	M. § 87(2)(g)
N. PO Perez abused his authority by saying, If it was up to him, he would put handcuffs on all of them and lock all of them up. If I had my way, I would handcuff you all and take you down., in violation of Patrol Guide procedure 104-01.	N. § 87(2)(g)
O. Lt. Messina spoke discourteously to the civilians by saying, Shut up, get out of the chair. Shut the fuck up. I'll arrest all you motherfuckers., in violation of Patrol Guide procedure 104-01.	O. § 87(2)(g)
P. PO Boyle spoke discourteously to § 87(2)(b) by saying, Get out of the way, old lady., in violation of Patrol Guide procedure 104-01.	P. § 87(2)(g)
Q. Unidentified members of service spoke discourteously to the civilians by saying, Shut the fuck up. If you don't get on the fucking floor. Get the fuck on the floor., in violation of Patrol Guide procedure 104-01.	Q. § 87(2)(g)

## Summary of Complaint

### **The summary of the incident as gathered from the interviews conducted.**

On 7-26-97 at 0600hours, § 87(2)(b) and witnesses, § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) encountered subject officers at § 87(2)(b) during the execution of a bench warrant for § 87(2)(b) enclosures 1-2) Lt. Gary Messina, PO Kevin Boyle, PO William F. Johnson, PO Tito Perez, PO Michael Ledek, PO Paul Booth, PO Robert Scarpone, PO Mark Nonnenmann, PO Gary Muhlenforth, Sgt. James Keelan, PO Raymond E. Phillips, Lt. Owen McCaffrey, PO Waverly T. Busby Jr., PO Daniel T. Reilly, and PO John Cafarella were present at § 87(2)(b) to execute the bench warrant. The members of service forcibly opened the front door and entered the residence. Any locked door(s) encountered during the warrant execution was also forcibly opened by the Emergency Service Unit tool team.(enclosures 2b-f) § 87(2)(b) was incorrectly identified and taken into custody as the male listed on the bench warrant. § 87(2)(b) was arrested and transported to the stationhouse for arrest processing. § 87(2)(b) was positively identified as not being § 87(2)(b) § 87(2)(b) § 87(2)(b) arrest was voided and he was released from the stationhouse. § 87(2)(b) was not present at the residence during the execution of the bench warrant and has not resided at § 87(2)(b) for five years. § 87(2)(b) provided § 87(2)(b) § 87(2)(b) as his place of residence, which was listed on the bench warrant. The civilians interviewed for this case claimed no injuries.

## Results of Investigation

The investigation disclosed from the records received:

- Radio-run Sprint Report identified an incident involving § 87(2)(b) which occurred on the date of occurrence at 0721hours.(enclosures 23-23a)
- Initial arrest printout searches for § 87(2)(b) 7-26-97 arrest verified the arrest processed at the 106<sup>th</sup> Precinct was voided after it was discovered he was not § 87(2)(b) enclosures 23b-q)
- Complaint Report (UF-61) confirmed § 87(2)(b) last known arrest for 1997 was on § 87(2)(b) and he did not have an active bench warrant on the date of occurrence.(enclosure 23r)
- 106<sup>th</sup> Precinct Command Log confirmed § 87(2)(b) was at the stationhouse for arrest processing because he was suspected of being § 87(2)(b) enclosure 23s)
- 106<sup>th</sup> Precinct Tour 2 roll call for 7-26-97 listed Lt. Messina, Sgt. Keelan, PO Scarpone, PO Nonnenmann, PO Booth, PO Phillips, PO Ledek, and PO Muhlenforth as being on duty and re-assigned to assist in the execution of the bench warrant for § 87(2)(b) enclosures 23t-u)
- 106<sup>th</sup> Precinct search warrant pre-execution plan assigned: Lt. Messina / PO Booth to front security, Sgt. Keelan / PO Phillips / PO Ledek / PO Muhlenforth to outside security, and PO Scarpone / PO Nonnenmann to the hospital automobile.(enclosure 23w)
- Emergency Service Unit #9 / Emergency Service Unit Truck #10 warrant execution request(s) stated the functions of: PO Boyle / PO Perez were to have Body Bunkers & Glocks, PO Cafarella was to have a MP5, PO Busby was to have a Mini-14, and PO Johnson / PO Reilly were to have entry tools. (enclosure 23x)
- Emergency Service Unit Post Warrant Execution Plan and the Emergency Service Report explained on July 26<sup>th</sup> 1997 at 0550hours members of service forcibly entered through the front door using entry tools in search of a male suspected of having heavy weapons. One person was apprehended and taken into custody by the 106<sup>th</sup> Precinct.(enclosures 23y)
- Photo arrays conducted have resulted with PO Johnson being identified by § 87(2)(b) PO Ledek / Lt. Messina being identified by § 87(2)(b) PO Boyle being identified by § 87(2)(b) and PO Perez being identified by § 87(2)(b) enclosures 26b-f)
- § 87(2)(b) clarified that § 87(2)(b) is incompetent and is not able to provide a verbal account or identify any members of service from the photo arrays for the incident.(enclosure 26d)

## Conclusions and Recommendations

**Allegations A / I / P:** § 87(2)(b) alleged PO Boyle pushed her out of the way. / § 87(2)(b) § 87(2)(b) alleged PO Boyle knocked the doors off of their hinges. / § 87(2)(b) alleged PO Boyle stated, Get out of the way old lady.(enclosure 17) PO Boyle's photo array was shown to all five civilians involved and § 87(2)(b) identified him as the subject officer for Allegations A / I / P. Although § 87(2)(b) identified PO Boyle as the officer involved in Allegations A / I / P, the complainant failed to mention that this officer entered the residence with his firearm removed and pointed.(enclosure 3) **PO Boyle admitted:** The door(s) of the residence were forcibly opened with either a rabbit tool (hydraulic pump) or a sledgehammer, but remained on their hinges. / Stating to the civilians, Police, get down. Get down, don't move., several times. / He encountered two females inside of a bedroom (§ 87(2)(b) and § 87(2)(b) / Going to the basement and discovering a locked door which was forced open using an entry tool. / His firearm was removed and pointed upon entering the residence but re-holstered after the secondary search of the location was completed.(enclosure 26d) § 87(2)(g)

**Allegation D:** § 87(2)(b) alleged PO Johnson pointed his gun at her and her friend, § 87(2)(b) PO Johnson's photo array was shown to all five civilians involved and § 87(2)(b) identified the officer as the subject officer for Allegation D. Although § 87(2)(b) identified PO Johnson as the officer involved in Allegation D, the witness failed to mention PO Boyle and PO Caffarella were inside the bedroom with their guns pointed at both § 87(2)(b) and § 87(2)(b) PO Johnson § 87(2)(g)

§ 87(2)(b) and PO Rielly were assigned to the tool team.(enclosure 6) The tools assigned to the tool team consisted of a sledgehammer, a hydraulic pump referred tool a rabbit tool, and other heavy equipment for forcibly opening locked doors. PO Johnson and PO Reilly were last to enter the residence. After the door(s) of the residence were forcibly opened, PO Johnson and PO Reilly stepped aside to allow the entry team to go inside of the residence. The entry team had their firearm(s) unholstered-pointed and wore bulletproof protective gear. § 87(2)(g)

enclosure 19)  
Attempts to contact, locate, and interview § 87(2)(b) witness, have resulted with this civilian being unavailable for this case.(enclosure 26b) § 87(2)(g)

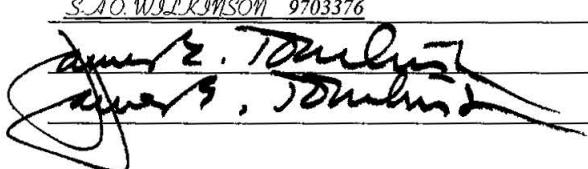
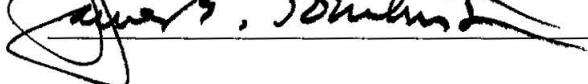
**Allegations E / F:** PO Boyle and PO Cafarella pointed their guns at § 87(2)(b) and § 87(2)(b) Lt. Messina has had prior dealings with § 87(2)(b) as a witness to his arrests and summonses issued to him. During the arrests or summonses issued, § 87(2)(b) has consistently provided the complainant's address, § 87(2)(b) § 87(2)(b) as his place of residence. It is alleged by Lt. Messina that § 87(2)(b) a.k.a. § 87(2)(b) has been shot several times and has also killed people.(enclosure 17a) Therefore, Emergency Service Unit members of service entered § 87(2)(b) with their shot guns and machine guns visible as procedure.(enclosure 8c) Photo arrays of PO Boyle and PO Cafarella were shown to all five civilians involved and the civilians did not identify these members of service as the subject officers for Allegations E / F.(enclosures 22a-b) § 87(2)(g)

**Allegations M / O:** § 87(2)(b) alleged Lt. Messina stated, I'll arrest the whole house. I'll arrest all of you motherfuckers. Shut up, get out of the chair. Shut the fuck up." Lt. Messina's photo array was shown to all five civilians involved and § 87(2)(b) identified the Lieutenant as the subject member of service for Allegations M / O.(enclosure 7) Although § 87(2)(b) identified the Lieutenant as the subject member of service involved in Allegations M / O, the witness failed to mention Emergency Service Unit members of service were the first to enter the residence. A bench warrant was issued for a male identified as possibly armed and dangerous who resided at § 87(2)(b) § 87(2)(g)

§ 87(2)(b) After the Emergency Service Units secured the residence and civilians, only then were precinct personnel allowed to enter the location. § 87(2)(b) was secured by Emergency Service Unit members of service and not by the 106<sup>th</sup> Precinct personnel. The 106<sup>th</sup> Precinct personnel entered the residence to locate the secured civilians.(enclosures 8a-c) § 87(2)(b) was already cuffed and secured by the time Lt. Messina entered the residence. § 87(2)(g)

**Allegation N:** § 87(2)(b) alleged PO Perez stated, If it was up to him, he would put handcuffs on all of them and lock all of them up. If I had my way, I would handcuff you all and take you down." PO Perez's photo array was shown to all five civilians involved and § 87(2)(b) identified him as the subject officer for Allegation N. Although § 87(2)(b) identified PO Perez as the officer involved in Allegation N, the witness failed to mention PO Boyle, PO Cafarella, and PO Busby were all yelling verbal commands to the civilians inside of the residence.(enclosure 4) **PO Perez admitted he:** Stated to the civilians he encountered, "Police, everyone get down. Get down, don't move. / Kicked open any locked door(s) he encountered which had a simple lock(s). / Had his firearm removed and pointed upon entering the residence and re-holstered his firearm after the residence was deemed secured.(enclosure 21) § 87(2)(g)

**Allegations B / C / G / H / J-L / Q:** § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) alleged unidentified members of service: Knocked (pushed) § 87(2)(b) to the floor. / Pushed § 87(2)(b) and § 87(2)(b) up the stairs. / Pointed their guns at § 87(2)(b) and § 87(2)(b) / Kneel § 87(2)(b) in the back. / Knocked the doors off of their hinges. / Searched the residence. / Stated to the civilians, I'll shoot you down. Shut the fuck up. If you don't get on the fucking floor. Get the fuck on the floor.(enclosures 3-7) Photo arrays of Lt. Gary Messina, PO Kevin Boyle, PO William F. Johnson, PO Tito Perez, PO Michael Ledek, PO Paul Booth, PO Robert Scarpone, PO Mark Nonnenmann, PO Gary Muhlenforth, Sgt. James Keelan, PO Raymond E. Phillips, Lt. Owen McCaffrey, PO Waverly T. Busby Jr., PO Daniel T. Reilly, and PO John Cafarella were shown to the civilians involved have resulted with no positive or conclusive identifications for Allegations B / C / G / H / J-L / Q.(enclosures 8-22) The precinct records received and the interviews conducted did not reveal the identities of the members of service involved with Allegations B / C / G / H / J-L / Q.(enclosures 26b-f) § 87(2)(g)

Investigator:	S.A.O. WILKINSON 9703376	Date:	September 8 <sup>th</sup> , 1998
Supervisor:		Date:	9/3/98
Reviewed by:		Date:	9/8/98
Reviewed by:		Date:	